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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/551,556
Filing Date: October 03, 2005
Appellant(s): NISHIDA ET AL.

Christopher M. Tobin
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed March 1, 2010 appealing from the

Office action mailed August 28, 2009.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying

by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial

proceedings which will directly affect or be directly affected by or have a bearing on the

Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

Claims pending: 1-2, and 4-8

Claims rejected: 1-2, and 4-8

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of

amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter

contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(6) Grounds of Rejection to be Reviewed on Appeal

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

| 2003/0026592 | Kawahara et al. | 2-2003 |
| 2002/015917 | Chakravarty et al. | 11-2002 |

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by

Kawahara (US Publication No. 2003/0026592).

Regarding claims 1 and 6, Kawahara'592 teaches an editing apparatus (number 1, Fig.

1), comprising an edit list recognition unit (number 10, Fig. 1) for recognizing an edit list

(EDL, paragraph 087) describing edit contents in a general-purpose data description

language, the edit contents used for creating a series of video content by editing a

plurality of edit material (EPL maker 10 as described in paragraph 089);

a video content creation unit (numbers 15, 16, 17, combined with number 20 Fig. 1) for

creating the video content by performing an editing process (editing terminals…effect a

desired operation, paragraph 091) on the plurality of edit material based on the edit

contents of the edit list (notice that number 15, 16, and 17 receiving input from 10

further described in) wherein the video content creation unit creates the video content

by executing the editing process after converting the plurality of edit material into a

prescribed edit format suitable for the editing process (a format declare statement for

defining a format of at least a certain material, paragraph 091) and extracting desired

video content of the plurality of edit material (read out by the edit controller which will

supply it to the content maker, paragraph 092) based on a plurality of edit point

information (notice the time code and edit cut-in, paragraph 0114);

an editing processor (number 32, Fig.1) for performing an editing process on the video

content created by the video content creation unit (raw materials are edited based on

edit control signal, paragraph 096); and

an edit list creation unit (number 36, Fig.1) for creating a new edit list described in the

general-purpose data description language based on the editing process executed by

the editing processor (encodes data having been edited in a format based on the edit

control signal, paragraph 096 and for multiple paragraph 097).

Regarding claim 2, Kawahara'592 teach the edit list recognition unit recognizes the edit

list describing effect information and meta data information as contents of the editing

process (notice in the EPL, there is identification information for identifying editing

materials, as shown in Fig. 2, meta data concerning an output is also stated in the EPL

as described in paragraph 0107).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

Claims 4 and 5 rejected under 35 U.S.C. 103(a) as being unpatentable over Kawahara

(US Publication No. 2003/0026592) in view of Chakravarty (US Publication No.

2002/0175917).

Regarding claim 4, Kawahara'592 does not expressly teach the edit list recognition unit recognizes the edit list described in an XML as the general- purpose data description language.

Chakravarty'917 teaches edit list described in an XML as the general- purpose data description language (XML, paragraph 069).

Having a system of Kawahara'592 reference and then given the well-established teaching of Chakravarty'917 reference, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the video editing system of Kawahara'592 reference to include the specific format of the file type taught by Chakravarty'917 reference, since the result of the substitution would have been predictable.

Regarding claim 5, Kawahara'592 does not expressly teach the edit list recognition unit recognizes the edit list described in an SMIL (Synchronized Multimedia Integration language) in which the XML is specialized for video data and audio data.

Chakravarty'917 teaches the edit list described in an SMIL (Synchronized Multimedia Integration language) in which the XML is specialized for video data and audio data (SMIL, paragraph 069).

Having a system of Kawahara'592 reference and then given the well-established teaching of Chakravarty'917 reference, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the video editing system of Kawahara'592 reference to include the specific format of the file type taught

by Chakravarty'917 reference, since the result of the substitution would have been predictable.

(10) Response to Argument

Appellant, on page 8, lines 13-page 9, lines 8, argues: "The Examiner erred in rejecting claims 1 and 2 under 35 U.S.C. § 102(b) as being as being anticipated by Kawahara '592. Specifically, Kawahara '592 fails to disclose, suggest or teach "a video content creation unit for creating the video content by performing an editing process on the plurality of edit material based on the edit contents of the edit list wherein the video content creation unit creates the video content by executing the editing process after converting the plurality of edit material into a prescribed edit format suitable for the editing process and extracting desired video content of the plurality of edit material based on a plurality of edit point information.""

In response, the editing terminals 15, 16, and 17 creates video content (paragraph 0092 EPL formed by each of the editing terminals) by performing an editing process (notice the editing terminals 15, 16, 17 and edit controller 20 as read in paragraph 0092 edits the highly compressed sub-materials paragraph 0091 and outputs a content in a predetermined format paragraph 0093) on the plurality of edit material (notice three editing terminals creating/editing a plurality of material, Fig. 1) based on the edit contents of the edit list (based on the edit procedure list the edit controller creates the edit control signal and the video content in a predetermined format, paragraph 0092,

0093) wherein the video content creation unit creates the video content (notice in

paragraph 0118 the edit-result material ED which is formed based on the EPL

paragraph 0116) by executing the editing process (EPL creation by edit terminals

paragraph 0092 is a list intended to form the edit-result material paragraph 0017) after

converting the plurality of edit material into a prescribed edit format suitable for the

editing process (the decoding of the highly compressed sub materials is a conversion

process done before execution of the edit process, paragraph 0091) and extracting

desired video content (after decompression of the compressed sub-materials the format

declare statement and identification information are extracted paragraph 0091) of the

plurality of edit material based on a plurality of edit point information (the identification

information and format declare statements are included in the created EPL as shown in

Fig. 5 further the identification information and format declare statements shown in line

1 of Fig. 5, indicate the edit cut-in and cut-out of an editing paragraph 0118. The edit

point information is the cut-in and cut-out portion included in the UMID described in para

0118).

Appellant, on page 10, lines 18-30, argues: "Essentially, paragraphs [0091-0092]

Kawahara '592 disclose a means for making an EPL. An operator controls the sub-

material server via one of the editing terminals to effect a desired operation while

visually checking a video displayed on the monitor, thus making an EPL. The EPL is

then read out by the edit controller and supplied to the content maker. In contrast,

Appellant's invention can execute editing processes based on various kinds of editing

process information described in a versatile edit list and a new edit list can be created

according to the editing process, so that a more advanced editing process can be

executed regardless of the type of editing apparatus, thus making it possible to realize

an editing apparatus capable of executing a more advanced editing process which can

be executed by all editing apparatuses, regardless of the type of editing apparatus.

Appellant's specification at p. 13, line 9 through p.14, line 24 more precisely describe

the claimed features of a video content creation unit such that converts all the video

data and the audio data into a prescribed edit format suitable for execution of the editing

process."

In response, Kawahara '592 teaches the supporting of multiple image data formats and

the capability of switching processes from one to another (paragraph 0017). Further, the

final edit decision list forms the video content in an arbitrary format with prevention of

any image deterioration and supports multiple image data formats (paragraph 0018).

Appellant, on page 11, lines 21-32, argues: "Though, Kawahara '592 reads out the

highly compressed sub materials from an internal recording medium and decode them,

and display, on a monitor, a video reconstructed from the decoded material data, there

is no mention of a video content creation unit that creates video content by executing an

editing process after converting the plurality of edit material into a prescribed edit

format suitable for the editing process and extracting desired video content of the

plurality of edit material based on a plurality of edit point information. The Advisory

Action alleges that the format declare statement for defining a format of at least a

certain material is equivalent to converting the plurality of edit material into a prescribed

edit format suitable for the editing process. However, it is noted that Kawahara '592

discloses that a format declare statement specifies, in detail, a time taken for capture of

one frame, shutter speed for capturing, effective pixel number, etc. Clearly, the format

declare statement does not convert the plurality of edit material into a prescribed edit

format."

In response, the edit-result material formed based on the EPL is created by executing

an editing process after converting the plurality of edit material into a prescribed edit

format suitable for the editing process (decompressed source materials 0091) and

extracting desired video content of the plurality of edit material based on a plurality of

edit point information (TC stated in the EPL paragraph 0107). The format declare

statement along with identification information are extracted when the EPL is used to

form edit-result material. Further notice the main part cuts in paragraph 0113 and edit

cut-in and cut-out described in paragraph 0114 and 0118. Clearly, the edit point

information (cuts) are used when editing source material as shown in 0113-0118. Also

notice Fig. 3, the cut edit material is composed of extracted video content from a

plurality of edit material based on the edit point information.

Appellant, on page 12, line 12 – page 13, line 22, argues: "The Examiner erred in

rejecting claim 6 under 35 U.S.C. § 102(b) as being as being anticipated by Kawahara

'592. As previously discussed, Kawahara '592 discloses a means for providing an edit

decision list making method of making an edit decision list permitted to form a content

with low image deterioration and supporting multiple image data formats with the

capability of switching processes from one to another. Kawahara '592 also discloses an

edit decision list including identification information for identification of a material for use

in editing, and a format declare statement for defining a format of at least a certain

material. There is no mention of a video content creation unit that creates video content

by executing an editing process after converting the plurality of edit material into a

prescribed edit format suitable for the editing process and extracting desired video

content of the plurality of edit material based on a plurality of edit point information in

Kawahara '592. As discussed above in further detail in the preceding section, Kawahara

'592 discloses how a format declare statement specifies, in detail, a time taken for

capture of one frame, shutter speed for capturing, effective pixel number, etc. Clearly,

the format declare statement does not convert the plurality of edit material into a

prescribed edit format. Again, the characterization within the Office Action and the

Advisory Action of the claim language appears to recast the express language found

within the claims by redefining the invention in a manner different that from what is set

forth within the claims."

In response, the editing terminals 15, 16, and 17 creates video content (paragraph

0092 EPL formed by each of the editing terminals) by performing an editing process (

notice the editing terminals 15, 16, 17 and edit controller 20 as read in paragraph 0092

edits the highly compressed sub-materials paragraph 0091 and outputs a content in a

predetermined format paragraph 0093) on the plurality of edit material (notice three

editing terminals creating/editing a plurality of material, Fig. 1) based on the edit

contents of the edit list (based on the edit procedure list the edit controller creates the

edit control signal and the video content in a predetermined format, paragraph 0092,

0093) wherein the video content creation unit creates the video content (notice in

paragraph 0118 the edit-result material ED which is formed based on the EPL

paragraph 0116) by executing the editing process (EPL creation by edit terminals

paragraph 0092 is a list intended to form the edit-result material paragraph 0017) after

converting the plurality of edit material into a prescribed edit format suitable for the

editing process (the decoding of the highly compressed sub materials is a conversion

process done before execution of the edit process, paragraph 0091) and extracting

desired video content (after decompression of the compressed sub-materials the format

declare statement and identification information are extracted paragraph 0091) of the

plurality of edit material based on a plurality of edit point information (the identification

information and format declare statements are included in the created EPL as shown in

Fig. 5 further the identification information and format declare statements shown in line

1 of Fig. 5, indicate the edit cut-in and cut-out of an editing paragraph 0118. The edit

point information is the cut-in and cut-out portion included in the UMID described in para

0118).

Appellant, on page 13, line 23 – page 14, argues "B1. The Examiner erred in rejecting

claims 4 and 5 under 35 U.S.C. § 103(a) as being unpatentable over Kawahara '592 in

view of Chakravarty '917. Claims 4 and 5 depend from and thus incorporate the features

of claim 1, which is neither disclosed nor suggested by Kawahara '592, for the reasons

stated above. Chakravarty '917 does not remedy the deficiencies of Kawahara '592, as

the various features recited above are also absent from Chakravarty '917. For example,

Appellant's claimed features of "a video content creation unit for creating the video

content by performing an editing process on the plurality of edit material based on the

edit contents of the edit list wherein the video content creation unit creates the video

content by executing the editing process after converting the plurality of edit material

into a prescribed edit format suitable for the editing process and extracting desired

video content of the plurality of edit material based on a plurality of edit point

information," are neither disclosed nor suggested by Chakravarty '917. Chakravarty

'917 concerns computer-implemented or computer-enabled methods for creating,

viewing, saving and editing, or storyboarding digital assets. Digital assets that may be

storyboarded include, by way of example, digital video, digital audio, etc. As discussed

above, Appellant's invention can execute editing processes based on various kinds of

editing process information described in a versatile edit list and a new edit list can be

created according to the editing process, so that a more advanced editing process can

be executed regardless of the type of editing apparatus, thus making it possible to

realize an editing apparatus capable of executing a more advanced editing process

which can be executed by all editing apparatuses, regardless of the type of editing

apparatus. There is no mention of a video content creation unit that creates video

content by executing an editing process after converting the plurality of edit material into

a prescribed edit format suitable for the editing process and extracting desired video

content of the plurality of edit material based on a plurality of edit point information in

Chakravarty '917."

In response, the editing terminals 15, 16, and 17 creates video content (paragraph

0092 EPL formed by each of the editing terminals) by performing an editing process (

notice the editing terminals 15, 16, 17 and edit controller 20 as read in paragraph 0092

edits the highly compressed sub-materials paragraph 0091 and outputs a content in a

predetermined format paragraph 0093) on the plurality of edit material (notice three

editing terminals creating/editing a plurality of material, Fig. 1) based on the edit

contents of the edit list (based on the edit procedure list the edit controller creates the

edit control signal and the video content in a predetermined format, paragraph 0092,

0093) wherein the video content creation unit creates the video content (notice in

paragraph 0118 the edit-result material ED which is formed based on the EPL

paragraph 0116) by executing the editing process (EPL creation by edit terminals

paragraph 0092 is a list intended to form the edit-result material paragraph 0017) after

converting the plurality of edit material into a prescribed edit format suitable for the

editing process (the decoding of the highly compressed sub materials is a conversion

process done before execution of the edit process, paragraph 0091) and extracting

desired video content (after decompression of the compressed sub-materials the format

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plurality of edit material based on a plurality of edit point information (the identification

information and format declare statements are included in the created EPL as shown in

Fig. 5 further the identification information and format declare statements shown in line

1 of Fig. 5, indicate the edit cut-in and cut-out of an editing paragraph 0118. The edit

point information is the cut-in and cut-out portion included in the UMID described in para

0118).

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the

Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Lawrence E. Wills/

Examiner, Art Unit 2625

Conferees:

/King Y. Poon/

Supervisory Patent Examiner, Art Unit 2625

/Twyler L. Haskins/

Supervisory Patent Examiner, Art Unit 2625